

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

Respondents.

NOTICE AND SUMMARY OF FINDINGS PURSUANT TO FINANCIAL CODE SECTION 17621

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1 Please take notice that DEMETRIOS A. BOUTRIS, California Corporations Commissioner,
2 finds:

3 1. NLCS ESCROW SERVICES, INC., a California corporation ("NLCS" or "Respondent")
4 is an escrow agent holding a valid and unrevoked license issued by the California Corporations
5 Commissioner ("Commissioner"), pursuant to the Escrow Law of the State of California (§ 17000 et
6 seq. of the California Financial Code).

7 2. Commencing in or about October 2002, and continuing through at least February
8 2003, NLCS made disbursements totaling at least \$94,574.75 from its escrow accounts in the form of
9 unauthorized fees or other unauthorized disbursements in violation of California Financial Code §
10 17414(a)(1)(2) and (b) and California Code of Regulations, Title 10, §§ 1738 and 1738.2.

11 3. In or about October 2002, NLCS overdrew its fee account with unposted trust checks
12 issued out of sequence deposited into its general account: 1) trust check 46539 for \$15,000; and 2)
13 trust check 46553 for \$10,000, for a total of \$25,000. There were no escrow instructions or court
14 orders authorizing such a disbursement to NLCS from this escrow trust account or any other escrow
15 at NLCS. This disbursement was in violation of California Financial Code § 17414(a)(1)(2) and (b)
16 and California Code of Regulations, Title 10, §§ 1738 and 1738.2.

17 4. In addition, in or about November 2002, NLCS had a shortage in Escrow 15438
18 totaling \$17,077.49. NLCS was required and failed to replace the \$17,077.49, when the check issued
19 from its general account, check number 3633 dated November 27, 2002, bounced for non-sufficient
20 funds. This disbursement was in violation of California Financial Code § 17414(a)(1)(2) and (b) and
21 California Code of Regulations, Title 10, §§ 1738 and 1738.2.

22 5. Furthermore, the escrow account had a shortage totaling \$10,000, which was caused
23 by trust check 47600, dated November 25, 2002, which was not posted to the escrow fee account.
24 This check cleared on November 25, 2002, and was deposited into the general account on the same
25 date. This disbursement was in violation of California Financial Code § 17414(a)(1)(2) and (b) and
26 California Code of Regulations, Title 10, §§ 1738 and 1738.2.

27 6. On or about February 24, 2003, NLCS's daily Exception Report for its prior day's
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business, February 21, 2003, disclosed a shortage of \$42,497.26 in NLCS's trust account, which was deposited into its general account. This disbursement was in violation of California Financial Code § 17414(a)(1)(2) and (b) and California Code of Regulations, Title 10, §§ 1738 and 1738.2.

7. The unauthorized disbursements described in paragraphs 2 through 6 above have caused a shortage of at least \$94,574.75 to exist in the trust accounts of NLCS in violation of California Code of Regulations, Title 10, § 1738.1.

8. The California Corporations Commissioner has determined that the following trust funds have been disbursed in violation of California Financial Code § 17414(a)(1)(2) and (b) and California Code of Regulations, Title 10, §§ 1738, 1738.1 and 1738.2: 1) \$25,000, shortage in the trust account (which NLCS had previously replaced with a check that was returned for non-sufficient funds); 2) \$17,077.49, for a shortage in the trust account (which had been previously replaced with a check from NLCS that was returned for non-sufficient funds); 3) \$10,000, for a trust check that was cashed but never posted to the trust account, which created an additional shortage in the trust account; and 4) \$42,497.26, for a shortage in the trust account that was deposited in NLCS's general account.

9. On or about October 2002, the Commissioner demanded that NLCS cure the trust account shortage described in paragraph 4 above. NLCS wrote a check to cure the shortage, which bounced and NLCS has continued to fail to cure the shortage to date.

10. Section 17621 of the California Financial Code provides in pertinent part:

Whenever it appears to the Commissioner that any escrow agent subject to this division: ...

- (b) Is conducting escrow business in an unsafe and unauthorized manner;
- (c) Has violated its charter or any law of the State of California;...
- (g) Any officer, director, stockholder, or trustee of such escrow agent, or attorney in fact of such escrow agent has embezzled, sequestered, or willfully diverted the assets or trust funds of such escrow agent;...

the commissioner shall dispatch a written notice and summary of findings, as referred to in Section 17415, to the principal officer of the escrow agent involved or to its manager of record; and such escrow agent shall be afforded a reasonable opportunity to comply or otherwise effect such remedy as the commissioner may deem acceptable. However, should the escrow agent so notified fail to comply within five days of receipt of the notice, or as soon as it appears to the commissioner that no compliance is possible, or in the event prompt delivery of the prescribed written notice is impossible, the commissioner may forthwith take possession of the property and

business of such escrow agent and retain possession until such escrow agent resumes business or its affairs be finally liquidated as provided in this chapter. The escrow agent, with the consent of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

11. Based upon the foregoing, the Commissioner finds that NLCS has violated FC § 17414(a)(1)(2) and (b) and CCR §§ 1738, 1738.1 and 1738.2, is conducting escrow business in an unsafe, injurious, and unauthorized manner and that no compliance is possible.

12. Pursuant to FC §§ 17621 and 17630, it is necessary that a conservator be appointed as specified in the accompanying Order Appointing David Pasternak Conservator Pursuant to FC § 17630.

Dated: February 27, 2003
Los Angeles, California

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
Steven C. Thompson
Special Administrator, Escrow Law